



## **CITY OF HAYWARD AGENDA REPORT**

AGENDA DATE 12/08/98  
AGENDA ITEM 5  
WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Finance and Internal Services

**SUBJECT:** Adoption of a Resolution Accepting the Report and Adopting Findings  
Related to Fees Collected for Development Projects That are Subject to the  
Requirements of the Mitigation Fee Act

### **RECOMMENDATION:**

It is recommended that the City Council accept the attached report (Exhibit A) and adopt required findings regarding the City's compliance with certain provisions of the Mitigation Fee Act, sometimes referred to as AB 1600, and state legislation governing the imposition and recordation of developer fees.

### **BACKGROUND:**

It is common for local agencies to charge fees on new development to fund construction of capital facilities that will serve the development. The AB 1600 (Cortese) portion of the Mitigation Fee Act applies to fees charged in connection with the approval of development projects to defray cost of public facilities. It was enacted by the State Legislature in 1987, and applies to developer fees established, increased, or imposed on or after January 1, 1989.

In order to comply with the Mitigation Fee Act, the City must follow four primary requirements:

1. make certain determinations regarding the purpose and use of a fee and establish a "nexus" or connection between a development project (or class of project) and the public improvement being financed with the fee;
2. segregate fee revenue from the General Fund in order to avoid commingling of capital facilities fees and general funds;
3. for fees that have been in the possession of the City for five years or more, and for which the dollars have not been spent or committed to a project, the City must make findings each fiscal year describing the continuing need for the money; and

4. refund any fees, with interest, for developer deposits for which the findings noted above cannot be made.

The City has complied with numbers 1 and 2 above from the outset since the funds collected are necessary to fund the cost of improvements which benefit or will benefit the subject development; the attached report enumerates compliance with numbers 3 and 4 for fiscal year 1997-98.

Findings have been made with respect to the portion of any fees remaining unexpended or uncommitted to a project. The findings identify the public purpose for which a particular fee was received, indicate the relationship between the fee and the purpose, and show the continuing need for the funds if the need exists. Refunds of the uncommitted or unexpended portion of fees are to be provided to the depositor for projects for which such need cannot be demonstrated.


Exhibit A to this report is a record of the fees received by the City since January 1989 in connection with development projects that involve the construction or maintenance of public facilities (street improvements, utility relocations, maintenance districts) and are governed by AB 1600. Included for each applicable deposit are the name of the project and the depositor, the date and amount of the original deposit, the current balance in the deposit account, and a summary of the findings for each deposit.

Exhibit B provides detailed information for each of the summary findings listed on Exhibit A. The narrative includes the specific public improvements for which deposits were received by the City, the relationship between the developer's project and the public improvements, and an explanation of why the funds should be retained after five years if that is the case.

The Council is requested to accept the information regarding AB 1600 deposits contained in Exhibits A and B, and adopt findings as to those funds that remain unexpended five or more years after deposit.

The information contained in the Mitigation Fee Act compliance report has been provided to the Building Industry Association and the affected developers.

Prepared by:

  
Denese Rohrer, Budget Administrator

Recommended by:

Perry H. Carter

Perry H. Carter, Director of Finance and Internal Services

Approved by:

Jesús Armas

Jesús Armas, City Manager

Attachments:

Exhibit A - Record of Fees

Exhibit B - Summary Finding Detail

12/1/98

## CITY OF HAYWARD

## Report of Findings in Compliance with Mitigation Fee Act for Fiscal Year 1997-98

	APPLICABLE ACCOUNTS- PROJECT NAME	DATE OF DEPOSIT	ORIGINAL DEPOSIT	NAME OF DEPOSITOR	BALANCE AS OF 6/30/97	NEW DEPOSITS	INTEREST	EXPENDED IN 1997-98	REFUNDED AS OF 6/30/98	BALANCE AS OF 6/30/98	SUMMARY FINDING (Please refer to Exhibit B for detailed information)
1	The Plymouth Group- Tract 6078 (2280-006)	7/13/92	2,340	The Plymouth Group	3,124	0	173	0	0	3,297	Need for benefit district still exists → Retain deposit.
2	Sunnyside Commons- Tract 6391 (2280-008)	11/19/92	3,780	The Plymouth Group	3,726	0	207	0	0	3,933	Need for benefit district still exists → Retain deposit.
3	Sunnyside Commons II- Tract 6260 (2280-009)	9/17/92	1,620	Curtis S. Petterson	2,087	0	116	0	0	2,203	Need for benefit district still exists → Retain deposit.
4	Sunnyside Commons JV- Tract 6645 (2280-015)	3/25/94	3,780	The Plymouth Group	4,574	0	254	0	0	4,828	Need for benefit district still exists → Retain deposit.
5	Sunnyside Commons JV- Tract 6646 (2280-016)	3/25/95	3,240	The Plymouth Group	3,921	0	218		0	4,139	Need for benefit district still exists → Retain deposit.
6	Bay-O-Vista- Tract 6278 (2280-019)	11/8/94	26,400	Bay-O-Vista Realty	31,186	0	1,732	0	0	32,918	Need for intersection improvements still exists → Retain deposit.
7	Hanson and Hanson Builder- Tract 5891 (2280-026)	9/17/92	37,950	Hanson and Hanson Builders	45,354	0	3,034	851	0	47,537	Need for intersection improvements still exists → Retain deposit.
8	Sunnyside Commons Joint Venture-Tract 6713 (2280-028)	6/9/95	7,920	The Plymouth Group	9,054	0	503	0	0	9,557	Need for benefit district still exists → Retain deposit.

[illegible]

## **1997-98 PROJECT DESCRIPTIONS AND PURPOSES FOR AB1600 DEPOSITS**

This information corresponds to the projects listed on Exhibit A.

1. **The Plymouth Group-Tract 6078 (2280-006)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles on Mohr Drive. Completion is anticipated to occur within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
2. **Sunnyside Commons-Tract 6391 (2280-008)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles on Mohr Drive. Completion is expected within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
3. **Sunnyside Commons II-Tract 6260 (2280-009)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles on Mohr Drive. Completion is expected within the next five years. The funds will remain in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
4. **Sunnyside Commons JV-Tract 6645 (2280-015)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles along Mohr Drive. Completion is expected within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
5. **Sunnyside Commons JV-Tract 6646 (2280-016)**: The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocate utility poles along Mohr Drive. Completion is expected within the next five years. The funds will be retained in the account until the benefit district is formed, at which time the monies will be transferred to the benefit district.
6. **Bay-O-Vista-Tract 6278 (2280-019)**: The project for which the deposit was collected is the subdivision of a 2.66 acre parcel into 18 single-family lots. Approval of the project required a deposit equal to the project's proportionate share of the estimated cost of improvements to the B Street/ Center Street/ Kelly Street intersection. Memorandum of Understanding with the County makes the County responsible for fully funding the B/Center /Kelly intersection improvements and

obligates the City to use developer funds associated with that intersection for other improvements at D/Seventh Streets, D/Second Streets and E/Second Streets. Thus, the funds will be retained until the substitute intersection improvements are completed, which is anticipated to occur within the next five years. At that time, any remaining balance will be refunded to the developer.

7. **Hanson and Hanson Builders-Tract 5891 (2280-026)**: The deposit is related to the subdivision of a 2.9 acre parcel into 23 single-family lots. The developer was required to deposit funds equal to the project's proportionate share of the estimated cost of improvements to the B Street/ Center Street/ Kelly Street intersection. Memorandum of Understanding with the County makes the County responsible for fully funding the B/Center/Kelly Street intersection improvements and obligates the City to use developer funds associated with that intersection for other improvements at D/Seventh Streets, D/Second Streets and E/Second Streets. Thus, the funds will be retained until the substitute intersection improvements are completed, which is anticipated to occur within the next five years. At that time, any remaining balance will be refunded to the developer.

8. **Sunnyside Commons Joint Venture-Tract 6713 (2280-028)**: This project is the construction of Phase VI (21 lots) of an approved 117 single-family lot subdivision. The deposit represents the estimated fee the subdivider is responsible to pay toward a benefit district that will be established to relocated utility poles along Mohr Drive. Completion is expected within the next five years. The funds will be retained until the benefit district has been formed, at which time the monies will be transferred to the benefit district.

9. **Herb Keith, Site Plan Review 88-9 (2328)**: The deposit was collected in connection with the construction of the University Plaza shopping center at the southwest corner of Hayward Boulevard and Civic Avenue. The deposit is the project's proportionate share of the estimated cost of the installation of a traffic signal at Hayward Boulevard. and Civic Avenue. The funds will be retained in the account for installation of the traffic signal. The traffic signal is expected to be installed in the next two years. Walpert Ridge projects which are approved are required to commit funds toward the improvement.

10. **Clarendon Hills-Tract 5277 (2337)**: The deposit was collected in connection with a 285 condominium project (Phase I of a 488 unit condominium subdivision). The developer was required to deposit funds equal to the subdivision's proportionate share of the estimated cost for the extension of Vanderbilt Street to Overhill Drive. The funds will be retained until used for the improvements.

11. **Grandview Estates-Tract 6011 (2341)**: The deposit is related to the subdivision of an 8.2 acre parcel into 31 single-family lots. A condition of approval for the project required a cul-de-sac to be constructed at the end of Grandview Avenue. The purpose of the deposit is to fund that construction. The funds will be retained until the process identified in the Highlands Neighborhood Plan for finalizing the street improvements in the Old Highlands area is completed.

The process will allow a determination to be made on the street improvements on Grandview Avenue.

12. **Clearbrook Partnership-Tract 5993 & 6173 (2345)**: The project for which the deposit was collected is the subdivision of a 38.4 acre parcel into 64 single-family lots on Garin Avenue. The project for which the deposit was originally received, the extension of Alquire Parkway, has been canceled and a new project planned. The new project is the realignment of Garin Avenue and the widening of Vanderbilt Street. These alternative traffic improvements have been addressed through an agreement with the property owner. Garin Avenue realignment has been completed and since the improvements on Vanderbilt Street are now no longer projected to be accomplished, the remaining funds will be reimbursed.

13. **Sanwa Bank-Tract 4609 (2399)**: The deposit is related to the subdivision of an 18 acre parcel into 30 single-family lots on Garin Avenue, and results from the ownership transfer of Tract 4609 from Land Title Company to Sanwa Bank. The project for which the deposit was originally received, the extension of Alquire Parkway, has been canceled and a new project planned. The new project is the realignment of Garin Avenue and the widening of Vanderbilt Street. These alternative traffic improvements have been addressed through an agreement with the property owner. Garin Avenue realignment has been completed and since the improvements on Vanderbilt Street are now no longer projected to be accomplished, the remaining funds will be reimbursed.



**DRAFT**

*ADP 11/19/98*

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

**RESOLUTION ACCEPTING THE REPORT AND ADOPTING  
FINDINGS RELATED TO FEES COLLECTED FOR THE  
DEVELOPMENT PROJECTS SUBJECT TO THE  
REQUIREMENTS OF THE MITIGATION FEE ACT**

WHEREAS, Government Code section 66006, part of the Mitigation Fee Act, which is sometimes referred to as Assembly Bill 1600, requires the City to make findings each fiscal year describing the continuing need to retain fees collected from developers but remaining unexpended and/or uncommitted after a period of five years; and

WHEREAS, the funds maintained for such period of time must be refunded if the requisite findings cannot be made; and

WHEREAS, the City has unexpended fees which it needs to retain for future expenditures.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward hereby accepts the report of the Director of Finance and Internal Services dated November 17, 1998, and adopts the findings contained therein, a copy of which is attached hereto as Exhibit "A".

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 1998

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward